

UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|--|---|---------------------------|
| In re Application of Hood, <i>et al.</i> |) | Date: 7 October 2008 |
| |) | |
| Application No.: 09/930,788 |) | Group Art Unit: 3627 |
| |) | |
| Filed: August 15, 2001 |) | Examiner: Frenel, Vanel |
| |) | |
| For: Customizable Handheld Computer |) | Attorney Ref. No.: 121.02 |
| Data Collection and Report |) | |
| Generation Software |) | |
| |) | |

Declaration of Andrew Hood

I, Andrew Hood, declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true.

Background

1. Attached as Exhibit A to this declaration is a current copy of my credentials. As a result of the education and experience described in my resume, I believe that I am qualified to offer this declaration.
2. As indicated in my attached resume, I have extensive experience with over 20 years of Emergency medicine experience and 17 years as an EMS Medical Director and base hospital physician.

The Current Patent Application

3. I have reviewed the above-referenced patent application (the "instant application"), as well as the office actions that have been issued, and the responses to those office actions. Based on my review and on discussions with the my counsel, I understand that the claims of the present invention have been rejected as obvious. I understand that the examiner has held that it would have been obvious to combine the Brown, Campbell, Ballantyne, and Kehr patents to create the customizable handheld computer data collection and report generation software claimed in the present invention. However, for the reasons stated below, I respectfully disagree with this conclusion.
4. Since at least the time of filing the instant application, there has been a trend in the EMS industry toward the electronic collection of data while the EMS technician is still in the field. In many departments, such practices are recommended while in many others they are in fact required.
5. Competitors to the Applicants of the instant application have built software for handheld platforms, but all have failed. The claimed subject matter in the present application has proven to work and be commercially successful whereas the Applicants' competitors' attempts have been met with failure.

6. In order to create a system complex enough to meet the various documentation needs and to display and collect essentially unlimited amounts of data on a small handheld screen, the Applicants developed the customized template approach defined in the specification and claims as "Template Manager".

7. Systems with customization capabilities to meet the needs of small and rural departments were not available before the introduction of the claimed system. The small departments are having difficulty meeting the federal mandate because not only do they have less funding to do so, but also because their small size does not allow competing systems to recuperate customization startup costs.

8. Due to the high levels of customization offered by the present system, it has met the requirements for a wide variety of departments including very small departments, non-transporting departments, DIALYSIS and 'gurney car' services, etc. The success of the present system was based on the ability to use templates to create a system allowing the collection of wide range of data on a small screen. The needs of these departments have been unmet by competing systems.

9. Nearly all competitors have also attempted some sort of handheld hardware platform for EMS, but all have failed. The attempt of these competitors to develop the system again shows that there does exist a need for such a system. The present system is the only system commercially successful on pocket-pc sized handheld devices, and meets the needs of providing a handheld hardware platform for EMS. It is the high level of customization that has allowed the present system to be deployed for departments using displays as small as PDA type mobile phones. Through use of the claimed template driven system of creating widely customizable interfaces for such displays, even small departments with specialized needs have quickly created and rolled out a handheld platform for EMS.

10. As stated above, competitors have attempted to deploy a handheld hardware platform for EMS but have failed. Most failures stem from the fact that systems designed to work on PC screens do not translate well to handheld screens. Even large corporations such as Zoll and Medtronic have entered the market and had failures. For instance, Medtronic pulled its system from the market because the system could not "adapt" or be customized to the customers' needs. Furthermore, Zoll, the industry leader with the largest market share also pulled from the market a product that was an attempt at a handheld version of their software used on larger displays. Such failures show the inherent problem of having success in displaying and collecting data for EMS Data collection on a small handheld device. Other industry leaders, such as Med Media, attempted to produce successful handheld data recording devices for EMS but have since pulled their products because of failure. The present application's disclosure and claims covering an approach of using customizable templates has allowed the Applicant's system to be vastly superior to systems implemented before it.

11. The Applicants' system is now in use in six states, with three military contracts, and is the main system used in San Diego County, which is the 6th largest EMS system in the United States. Furthermore, the system has not been the subject of significant advertising. Unexpectedly, the customizable nature of the system has even allowed it to find success on very small mobile platforms. Hence, the system has even been

deployed on mobile phones, which due to their small size and the fact that they are already carried by ambulance and fire personnel are the ideal platform to meet state and locally mandated EMS agency requirements for ambulances.

Executed this 7th day of October, 2008 at Jackson, California

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I understand that willful false statements and the like are punishable by fine or imprisonment or both, and may jeopardize the validity of the application or any patent issuing thereon.



Andrew Hood, M.D.

Exhibit A

Board Certified Emergency Medicine, AAPS

EMS Medical Director Amador County

Medical Director American Legion Ambulance

Medical Director Alert Ambulance

Regional Advisory Committee member Mountain Valley EMS Agency 1989 – present

Medical Director Sutter Amador ER 1989 – 2001

Lead instructor for American Legion Paramedic Training course